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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/319,222

08/23/1999

BJORN HEED

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2625

7590

11/04/2004

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EXAMINER

CHOW, DOON Y

ART UNIT

PAPER NUMBER

2675

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/319,222	<b>Applicant(s)</b> HEED ET AL.	
	<b>Examiner</b> Dennis-Doon Chow	<b>Art Unit</b> 2675	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 41-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-62 is/are rejected.
- 7) ☒ Claim(s) 63 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claim 62 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, as originally filed, does not provide support for "said instrument does not record video images".

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 41-43 and 45-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammack et al. (6088053).

Hammack discloses a binocular includes and a set of monocular, a digital video camera for capturing a live image of an object and display means for displaying the live image in a first mode. The binocular further includes a memory function to freeze (store) the live image in a memory device, a control means for freezing the image, the display means for displaying (freezing) a still image of the object in a second mode, and a zooming controller for reducing or magnifying the image object in the first and second

Art Unit: 2675

modes. The monocular includes an electronic retina which is arranged to be optically or mechanically exposed to receive different-size images. The binocular further includes a means for terminating the image in the second mode and restoring the live image in the first mode.

Hammack does not explicitly disclose the magnification in the second mode is greater than the magnification in the first mode. However, Hammack discloses the zooming controller for magnifying the image object in the first and second modes. The image object in second mode, which was captured from the image object in the first mode, can be further magnified if desired. After the image object in the second mode is magnified, it is obvious that the magnification of the image object in the second mode is larger than the magnification of the image object in the first mode.

4. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hammack et al. as applied to claims 41-43 and 45-61 above, and further in view of Satake et al. (5317399).

Hammack does not explicitly disclose the use of a timer for controlling a time-interval of the displayed (frozen) image. However, using a timer for controlling a time-interval of a displayed (frozen) image is well known in the art as shown by Satake.

Therefore, it would have been obvious to one of ordinary skill in the art to use the known timer in Hammack's binocular. By doing so, the timing of the displayed (frozen) image can be automatically controlled.

***Allowable Subject Matter***

5. Claim 63 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed 7/19/04 have been fully considered but they are not persuasive.

Applicant argues that Hammack does not achieve an object or the structure of the present invention nor would it be obvious to modify it to do so. The examiner disagrees with applicant's arguments because of the follow reasons. Applicant may be correct that Hammack does not teach or suggest every feature which is disclosed in the specification (or the present invention as referred by the applicant). However, the features recited in applicant's claims are different from the features recited in the specification because the features in the claims are lot boarder than the features in the specification. As indicated in the above rejections, Hammack alone and combination with Satake teach the claimed features with the exception of the magnification in the second mode is greater than the magnification in the first mode. However, Hammack teaches using the zooming controller for magnifying the image object in the first and second modes. The image object in second mode, which was captured from the image object in the first mode, can be further magnified if desired. After the image object in the second mode is magnified, it is obvious that the magnification of the image object in the

Art Unit: 2675

second mode is larger than the magnification of the image object in the first mode. For these reasons, the above rejections stand.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis-Doon Chow whose telephone number is 703-305-4398. The examiner can normally be reached on 8:30-6:00, Alternate Monday off.


Art Unit: 2675

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

AU. 2675

October 31, 2004

  
DENNIS-DOON CHOW  
PRIMARY EXAMINER